

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 18-2706

RYAN SCHELL, D.C.;
TYLER SCHELL, D.C.; and
KANSAS CITY HEALTH AND WELLNESS
CLINIC, P.A.,

Defendants,

COMPLAINT

The United States of America alleges as follows:

NATURE OF ACTION

1. This is an action to recover treble damages and civil penalties under the False Claims Act, 31 U.S.C. §§ 3729-3733, and to recover all available damages, restitution, and other monetary relief under the common law theories of unjust enrichment and payment by mistake.

2. From in or about October 2011 through in or about December 2013, Defendants knowingly presented or caused to be presented false claims to the United States for payment under the Medicare program. The false claims relate to Defendants' purported diagnosis and treatment of peripheral neuropathy, a condition that affects nerves in the hands and feet and includes symptoms such as loss of sensation and/or a burning sensation.

3. The Defendants' claims to Medicare at issue in this case are false because some of the claimed procedures were not provided and some of the claimed procedures were not medically reasonable or necessary for the treatment of peripheral neuropathy.

JURISDICTION

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345.

5. The Court has supplemental jurisdiction to entertain the common law causes of action under 28 U.S.C. § 1367(a).

6. The Court may exercise personal jurisdiction over the Defendants under 31 U.S.C. § 3732(a) because the Defendants transacted business in this District during the time relevant to the action.

VENUE

7. Venue is proper in this District under 31 U.S.C. § 3732(a) and 28 U.S.C. § 1391(b) because the Defendants transacted business in this District during the time relevant to the action and the events giving rise to the present claims occurred in this District.

STATUTE OF LIMITATIONS

8. Ryan Schell and Tyler Schell executed a tolling agreement and tolling extension agreements with the United States, which provided that the time between May 23, 2016 to and including March 16, 2018 would be excluded when determining the statute of limitations.

PARTIES

9. The United States brings this action on behalf of the Department of Health and Human Services (“HHS”), including HHS’s component, the Centers for Medicare & Medicaid Services (“CMS”), which administers the Health Insurance Program for the Aged and Disabled established by Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 – 1395kkk-l (“Medicare”).

10. Defendant Ryan Schell is a resident of Johnson County, Kansas and a doctor of chiropractic medicine. At all times relevant to this Complaint, Ryan Schell was an enrolled provider in the Medicare program.

11. Defendant Tyler Schell is a resident of Johnson County, Kansas and a doctor of chiropractic medicine. At all times relevant to this Complaint, Tyler Schell was an enrolled provider in the Medicare program.

12. During times relevant to this action Kansas City Health and Wellness, P.A., (“KCH&W”) was a professional domestic for-profit corporation organized under Kansas law and located in Lenexa, Kansas. At all times relevant to this Complaint, KCH&W was an enrolled provider in the Medicare program. KCH&W’s corporate status was forfeited effective July 15, 2016 and is still continued as a body corporate and subject to this action under K.S.A. §17-6807.

13. During all times relevant to this action Ryan Schell was an owner and operator of KCH&W.

14. During all times relevant to this action Tyler Schell was an owner and operator of KCH&W.

STATUTORY AND REGULATORY BACKGROUND

The False Claims Act

15. The False Claims Act (“FCA”) imposes penalties and damages on any person who knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval to the United States or knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim. 31 U.S.C. § 3729(a)(1)(A) and (B).

16. The term “knowingly” under the FCA means that a person, with respect to information, (i) has actual knowledge of the information, (ii) acts in deliberate ignorance of the truth or falsity of the information, or (iii) acts in reckless disregard of the truth or falsity of the

information. 31 U.S.C. § 3729(b)(1)(B). No proof of specific intent to defraud is required to show that a person acted knowingly under the FCA. *Id.*

17. The FCA provides for recovery of three times the damages sustained by the United States (“treble damages”) plus a civil penalty for each false claim. 31 U.S.C. § 3729(a)(1)

Medicare

18. Title XVIII of the Social Security Act of 1935 established the Medicare Program, a federally subsidized health insurance program for elderly and disabled persons. 42 U.S.C. §§ 1395-1395kkk-1.

19. Medicare is financed by premium payments by enrollees together with contributions from funds appropriated by the Federal Government. 42 U.S.C. § 1395j.

20. The Medicare program is comprised of four parts: Part A, Part B, Part C and Part D. Only Medicare Part B is directly at issue in this case.

21. Medicare Part B provides federal government funds to help pay for, among other things, physician services and outpatient therapy services. 42 U.S.C. § 1395k.

22. Medicare Part B excludes payment for items and services that “are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member...” 42 U.S.C. § 1395y(a)(1)(a); Medicare Benefit Policy Manual, Ch. 16 § 20.

23. The Secretary of Health and Human Services (“the Secretary”) administers the Medicare Program through the Centers for Medicare and Medicaid Services (“CMS”). CMS is responsible for developing the coverage and payment details of the Medicare program through regulations and interpretive guidelines.

24. As a condition of payment for Medicare Part B services, a physician must “certify the necessity of the services and, in some instances, recertify the continued need for those services.” 42 C.F.R. § 424.10(a).

25. Deciding what items or services are “reasonable and necessary” is delegated in the first instance to Secretary who may decide whether to exclude certain types of items or services by establishing national coverage determinations (“NCDs”). 42 U.S.C. §§ 1395y, 1395ff(f)(1)(B).

26. The Secretary may enter into contracts with Medicare Administrative Contractors (“MACs”) with respect to the processing of claims and payments to providers. 42 U.S.C. § 1395kk-1. In the absence of an NCD, MACs may develop local coverage determinations (“LCDs”). An LCD is a determination regarding whether or not a particular item or service is covered in the MAC’s geographic region. 42 U.S.C. § 1395ff(f)(2)(B).

27. Additionally, CMS Medicare Program Integrity Manual, Chapter 3, Section 3.6.2.2, states that items are “reasonable and necessary” and thus covered by Medicare if, inter alia, they are “not experimental or investigational.”

28. Payments under Medicare Part B are often made directly to physicians rather than to the patient/beneficiary. This occurs when the provider accepts assignment from the patient/beneficiary of the right to payment. 42 U.S.C. § 1395u(b), (h). In that case, the provider submits claims directly to the Medicare Program.

29. To participate in the Medicare program, providers must sign a Medicare Enrollment Application CMS Form 855I for individuals and Form 855B for businesses.

30. When a provider signs a Medicare Provider Enrollment Application, the provider agrees to learn and adhere to Medicare and other federal health care program laws, regulations and program instructions.

31. Ryan Schell, as President of KCH&W, executed a CMS Form 855B on or about August 3, 2011. On the form Tyler Schell was listed as an individual with ownership interest and/or managing control of KCH&W.

32. The Form CMS 855B contained the following certification statement:

I agree to abide by the Medicare laws, regulations and program instructions that apply to this supplier. The Medicare laws, regulations, and program instructions are available through the Medicare contractor. I understand the payment of a claim by Medicare is conditioned on the claim and the underlying transaction complying with such laws, regulations and program instructions....

33. In order to submit claims to the Medicare Part B Program, a provider must submit an electronic claim or hard-copy claim form called a CMS 1500. 42 C.F.R. § 424.32(b), (d).

34. CMS as well as many third party payers have adopted the Healthcare Common Procedure Coding System (“HCPCS”) and the American Medical Association’s (“AMA”) Current Procedural Terminology (“CPT”) coding system for use by physicians and others to describe services rendered. Medicare Claims Processing Manual, Ch. 12, § 30.

35. To be payable by Medicare, the claim must identify the physician services and other medical procedures for which the provider is seeking payment by listing unique numerical codes using the HCPCS and the CPT numerical codes. 45 C.F.R. § 162.1002(b); Medicare Claims Processing Manual, Ch. 23, § 20.

36. To be payable by Medicare, the claim must include appropriate diagnostic coding for the claimed services using the AMA’s International Classification of Diseases ICD-9 (“ICD-9”) code. 42. C.F.R. § 424.32(a)(2).

37. Claims to Medicare must also identify the individual participating provider that provided the claimed services. The individual is identified by using the provider’s unique National Provider Identifier (“NPI”).

38. When submitting claims to Medicare, a provider certifies that “the services on this form were medically necessary . . .”

39. For claims submitted from in or about October 2011 through in or about December 2013, Medicare paid KCH&W \$63,103 for Nerve Conduction Tests; \$133,584 for Introduction/Injection of Anesthetic Agent (Nerve Block), Diagnostic or Therapeutic, other peripheral nerve or branch; \$218,023 for Diagnostic Ultrasound, Ultrasonic Guidance Procedures, Ultrasonic guidance for needle placement (e.g., biopsy, aspiration, injection, localization device), imaging supervision and interpretation; and \$52,730 for Physical Medicine and Rehabilitation, Modalities, with vasopneumatic device.

THE FALSE CLAIMS

40. Ryan and Tyler Schell solicited potential patients with advertisements that stated their clinic could “heal” neuropathy and “rejuvenate the nerve fibers.”

41. Neuropathy affects nerves in the hands and feet and includes symptoms such as loss of sensation and/or a burning sensation. The effects of neuropathy cannot be reversed.

42. Common causes of neuropathy include diabetes, vitamin B12 deficiency, and chronic alcohol consumption. The medically accepted treatment for individuals with neuropathy is to treat or manage the underlying cause.

43. Ryan and Tyler Schell presented or caused to be presented claims to Medicare for a series of procedures (the “protocol”) that they devised and claimed were provided to Medicare beneficiaries during one or several visits to KCH&W. The Schells determined what procedures were included in the protocol and directed what procedure codes and diagnosis codes to include on claims to Medicare. The claims listed procedures using some or all of the following CPTs:

- 95903, Nerve Conduction Tests, motor, F-Wave study;
- 95904, Nerve Conduction Tests, sensory;

- 64450, Introduction/Injection of Anesthetic Agent (Nerve Block), Diagnostic or Therapeutic, other peripheral nerve or branch;
- 76942, Diagnostic Ultrasound, Ultrasonic Guidance Procedures, Ultrasonic guidance for needle placement (e.g., biopsy, aspiration, injection, localization device), imaging supervision and interpretation; and
- 97016, Physical Medicine and Rehabilitation, Modalities, vasopneumatic device.

Nerve Conduction Tests

44. From in about October 2011 through in or about February 2013, the Schells submitted or caused to be submitted claims to Medicare using CPT codes 95903 and 95904 stating that KCH&W provided nerve conduction tests.

45. Nerve conduction tests involve the placement of electrodes on a patient. The electrodes are used to produce waveforms showing nerve activity and are recorded for interpretation. During all times relevant to this action the published AMA CPT description for codes 95903 and 95904 stated,

Waveforms must be reviewed on site in real time . . . Reports must be prepared on site by the examiner . . . This includes the calculation of nerve conduction velocities . . . and physician or other qualified health care professional interpretation.

46. The claims Tyler and Ryan Schell submitted or caused to be submitted to Medicare for nerve conduction tests listed the NPIs of physicians who did not actually perform or interpret the tests.

47. Ryan Schell, a chiropractor, actually performed the claimed nerve conduction studies.

48. Medicare Part B coverage for services by a chiropractor extends only to treatment by means of manual manipulation of the spine to correct a subluxation provided such treatment is

legal in the State where performed. All other services furnished or ordered by chiropractors are not covered. 42 C.F.R. 410.21(b); Medicare Benefit Policy Manual, Ch. 15, § 30.5.

49. Medicare paid KCH&W and its owners and operators Tyler and Ryan Schell for nerve conduction tests based upon the false claims Tyler and Ryan Schell knowingly presented or caused to be presented.

Diagnostic or Therapeutic Nerve Block Injections

50. From on or about October 16, 2012 through in or about December 2013, the Schells presented or caused to be presented claims to Medicare using CPT code 64450 stating that KCH&W provided diagnostic or therapeutic anesthetic nerve block injections.

51. Nerve block injections claimed by the Schells using CPT 64450 consisted of a local anesthetic that provided temporary numbness. The injections were not medically reasonable or necessary for the treatment of neuropathy because such injections are not a medically accepted method to treat or manage the underlying disease or cause of the neuropathy.

52. The Schells had notice that nerve block injections were not a covered treatment for neuropathy because the MAC with jurisdiction over the state of Kansas published LCD number L32565 regarding nerve block injections and CPT code 64450 for services performed on or after October 16, 2012. LCD L32564 stated in part,

The use of nerve blocks or injections for the treatment of multiple neuropathies or peripheral neuropathies caused by underlying systemic diseases is not considered medically necessary. Medical management using systemic medications is clinically indicated for the treatment of these conditions.

At present, the literature and scientific evidence supporting the use of peripheral nerve blocks or injections in multiple neuropathies or underlying systemic diseases that are producing peripheral neuropathies, especially for the Medicare population, is insufficient to warrant coverage. These procedures are considered investigational, and are not eligible for coverage for the treatment of multiple neuropathies or peripheral neuropathies cause by underlying systemic diseases.

53. Despite this notice, the Schells continued to submit or cause to be submitted claims for the nerve block injections and falsely certify that the procedures were medically necessary.

54. Medicare paid KCH&W and its owners and operators Tyler and Ryan Schell for nerve block injections based upon the false claims Tyler and Ryan Schell knowingly presented or caused to be presented.

Ultrasonic Guidance Procedures

55. From in or about October 2012 through in or about December 2013, the Schells presented or caused to be presented claims to Medicare using CPT code 76942 claiming that KCH&W provided ultrasonic guidance for needle placement related to the claimed nerve block injections, CPT 64450, as part of the purported treatment of neuropathy.

56. Medicare does not cover services related to other non-covered services. The injections identified with CPT code 64450 in the claims the Schells submitted or caused to be submitted were not medically reasonable or necessary for the treatment of neuropathy. Therefore, the ultrasonic guidance procedures were also not medically reasonable or necessary.

57. Medicare paid KCH&W and its owners and operators Tyler and Ryan Schell for ultrasonic guidance procedures based upon the false claims Tyler and Ryan Schell knowingly presented or caused to be presented.

Physical Medicine and Rehabilitation, Modalities, Vasopneumatic Device

58. From in or about October 2011 through in or about December 2013, the Schells presented or caused to be presented claims to Medicare using CPT code 97016 claiming that KCH&W provided physical medicine with vasopneumatic devices.

59. The devices used for the claimed procedure were merely mechanical massage chairs and not vasopneumatic devices.

60. Mechanical message chairs were not medically reasonable or necessary for the treatment of neuropathy because they are not a medically accepted means to treat or manage the underlying cause of neuropathy.

61. Medicare paid KCH&W and its owners and operators Tyler and Ryan Schell for procedures with vasopneumatic devices based upon the false claims Tyler and Ryan Schell knowingly presented or caused to be presented.

62. The following table lists examples of false claims Defendants submitted or caused to be submitted¹:

MEDICARE BENEFICIARY	ON OR ABOUT DATE OF CLAIMED SERVICE	ON OR ABOUT DATE OF CLAIM	CPT	AMOUNT PAID
236	10/30/2012	11/1/2012	95904	\$83.34
236	11/5/2012	11/8/2012	76942	\$149.78
236	11/5/2012	11/8/2012	64450	\$277.64
236	11/5/2012	11/8/2012	97016	\$11.98
236	11/7/2012	11/9/2012	97016	\$11.98
236	11/7/2012	11/9/2012	64450	\$277.64
236	11/7/2012	11/9/2012	76942	\$149.78
236	11/12/2012	11/15/2012	76942	\$149.78
236	11/12/2012	11/15/2012	64450	\$277.64
236	11/12/2012	11/15/2012	97016	\$11.98
236	11/14/2012	11/16/2012	97016	\$11.98
236	11/14/2012	11/16/2012	64450	\$277.64
236	11/14/2012	11/16/2012	76942	\$149.78
236	11/19/2012	11/21/2012	76942	\$149.78
236	11/19/2012	11/21/2012	64450	\$277.64
236	11/19/2012	11/21/2012	97016	\$11.98
236	11/21/2012	11/26/2012	97016	\$11.98
236	11/21/2012	11/26/2012	64450	\$277.64
236	11/21/2012	11/26/2012	76942	\$149.78
236	11/26/2012	11/28/2012	76942	\$149.78
236	11/26/2012	11/28/2012	64450	\$277.64
236	11/26/2012	11/28/2012	97016	\$11.98
236	11/28/2012	11/30/2012	97016	\$11.98
236	11/28/2012	11/30/2012	76942	\$149.78
236	11/28/2012	11/30/2012	64450	\$277.64
236	12/3/2012	12/6/2012	64450	\$277.64
236	12/3/2012	12/6/2012	76942	\$149.78

¹ In order to protect the privacy of the Medicare beneficiaries referred to herein, the United States will provide to counsel for Defendants, subject to a protective order, identifying information for the individual beneficiaries.

MEDICARE BENEFICIARY	ON OR ABOUT DATE OF CLAIMED SERVICE	ON OR ABOUT DATE OF CLAIM	CPT	AMOUNT PAID
236	12/3/2012	12/6/2012	97016	\$11.98
236	12/5/2012	12/7/2012	97016	\$11.98
236	12/5/2012	12/7/2012	76942	\$149.78
236	12/5/2012	12/7/2012	64450	\$277.64
236	12/10/2012	12/12/2012	64450	\$277.64
236	12/10/2012	12/12/2012	76942	\$149.78
236	12/10/2012	12/12/2012	97016	\$11.98
236	12/12/2012	12/14/2012	97016	\$11.98
236	12/12/2012	12/14/2012	76942	\$149.78
236	12/12/2012	12/14/2012	64450	\$277.64
236	12/19/2012	12/21/2012	64450	\$277.64
236	12/19/2012	12/21/2012	76942	\$149.78
236	12/19/2012	12/21/2012	97016	\$11.98
236	1/2/2013	1/7/2013	64450	\$93.90
236	1/2/2013	1/7/2013	76942	\$151.18
236	1/2/2013	1/7/2013	97016	\$12.75
236	1/7/2013	2/8/2013	97016	\$12.75
236	1/7/2013	2/8/2013	76942	\$151.18
236	1/7/2013	2/8/2013	64450	\$211.50
236	1/9/2013	1/11/2013	64450	\$211.50
236	1/9/2013	1/11/2013	76942	\$151.18
236	1/9/2013	1/11/2013	97016	\$12.75
236	1/11/2013	1/16/2013	76942	\$151.18
236	1/11/2013	1/16/2013	64450	\$211.50
236	1/14/2013	1/16/2013	64450	\$211.50
236	1/14/2013	1/16/2013	76942	\$151.18
236	1/14/2013	1/16/2013	97016	\$12.75
236	1/16/2013	1/18/2013	97016	\$12.75
236	1/16/2013	1/18/2013	76942	\$151.18
236	1/16/2013	1/18/2013	64450	\$211.50
236	1/18/2013	1/22/2013	64450	\$211.50
236	1/18/2013	1/22/2013	76942	\$151.18
236	1/18/2013	1/22/2013	97016	\$12.75
236	1/23/2013	1/25/2013	97016	\$12.75
236	1/23/2013	1/25/2013	76942	\$151.18
236	1/23/2013	1/25/2013	64450	\$211.50
236	1/25/2013	1/29/2013	64450	\$211.50
236	1/25/2013	1/29/2013	76942	\$151.18
236	1/25/2013	1/29/2013	97016	\$12.75
236	1/28/2013	1/30/2013	97016	\$12.75
236	1/28/2013	1/30/2013	76942	\$151.18
236	1/28/2013	1/30/2013	64450	\$211.50
236	2/4/2013	2/6/2013	64450	\$211.50
236	2/4/2013	2/6/2013	76942	\$151.18
236	2/4/2013	2/6/2013	97016	\$12.75
236	2/6/2013	2/8/2013	97016	\$12.75

MEDICARE BENEFICIARY	ON OR ABOUT DATE OF CLAIMED SERVICE	ON OR ABOUT DATE OF CLAIM	CPT	AMOUNT PAID
236	2/6/2013	2/8/2013	76942	\$151.18
236	2/6/2013	2/8/2013	64450	\$211.50

118	10/30/2012	11/1/2012	95903	\$222.40
118	11/14/2012	11/16/2012	76942	\$149.78
118	11/14/2012	11/16/2012	64450	\$277.64
118	11/14/2012	11/16/2012	97016	\$11.98
118	11/19/2012	11/21/2012	97016	\$11.98
118	11/19/2012	11/21/2012	64450	\$277.64
118	11/19/2012	11/21/2012	76942	\$149.78
118	11/21/2012	11/26/2012	76942	\$149.78
118	11/21/2012	11/26/2012	64450	\$277.64
118	11/21/2012	11/26/2012	97016	\$11.98
118	11/26/2012	11/28/2012	97016	\$11.98
118	11/26/2012	11/28/2012	64450	\$277.64
118	11/26/2012	11/28/2012	76942	\$149.78
118	11/28/2012	11/30/2012	76942	\$149.78
118	11/28/2012	11/30/2012	64450	\$277.64
118	11/28/2012	11/30/2012	97016	\$11.98
118	11/30/2012	12/4/2012	97016	\$11.98
118	11/30/2012	12/4/2012	64450	\$277.64
118	11/30/2012	12/4/2012	76942	\$149.78
118	12/3/2012	12/6/2012	76942	\$149.78
118	12/3/2012	12/6/2012	64450	\$277.64
118	12/3/2012	12/6/2012	97016	\$11.98
118	12/5/2012	12/7/2012	97016	\$11.98
118	12/5/2012	12/7/2012	64450	\$277.64
118	12/5/2012	12/7/2012	76942	\$149.78
118	12/7/2012	12/11/2012	76942	\$149.78
118	12/7/2012	12/11/2012	64450	\$277.64
118	12/7/2012	12/11/2012	97016	\$11.98
118	12/10/2012	12/12/2012	97016	\$11.98
118	12/10/2012	12/12/2012	64450	\$277.64
118	12/10/2012	12/12/2012	76942	\$149.78
118	12/12/2012	12/14/2012	76942	\$149.78
118	12/12/2012	12/14/2012	64450	\$277.64
118	12/12/2012	12/14/2012	97016	\$11.98
118	12/14/2012	12/18/2012	97016	\$11.98
118	12/14/2012	12/18/2012	64450	\$277.64
118	12/14/2012	12/18/2012	76942	\$149.78
118	12/17/2012	12/19/2012	76942	\$149.78
118	12/17/2012	12/19/2012	64450	\$277.64
118	12/17/2012	12/19/2012	97016	\$11.98
118	12/19/2012	12/21/2012	97016	\$11.98
118	12/19/2012	12/21/2012	64450	\$277.64
118	12/19/2012	12/21/2012	76942	\$149.78

MEDICARE BENEFICIARY	ON OR ABOUT DATE OF CLAIMED SERVICE	ON OR ABOUT DATE OF CLAIM	CPT	AMOUNT PAID
118	12/21/2012	12/27/2012	76942	\$149.78
118	12/21/2012	12/27/2012	64450	\$277.64
118	12/21/2012	12/27/2012	97016	\$11.98
118	12/31/2012	1/7/2013	97016	\$11.98
118	12/31/2012	1/7/2013	64450	\$277.64
118	12/31/2012	1/7/2013	76942	\$149.78
118	1/2/2013	1/7/2013	76942	\$151.18
118	1/2/2013	1/7/2013	64450	\$93.90
118	1/2/2013	1/7/2013	97016	\$12.75
118	1/4/2013	2/8/2013	97016	\$12.75
118	1/4/2013	2/8/2013	76942	\$151.18
118	1/4/2013	2/8/2013	64450	\$211.50
118	1/7/2013	2/8/2013	76942	\$151.18
118	1/7/2013	2/8/2013	64450	\$211.50
118	1/7/2013	2/8/2013	97016	\$12.75
118	1/9/2013	1/11/2013	97016	\$12.75
118	1/9/2013	1/11/2013	64450	\$211.50
118	1/9/2013	1/11/2013	76942	\$151.18
118	1/11/2013	1/16/2013	76942	\$151.18
118	1/11/2013	1/16/2013	64450	\$211.50
118	1/11/2013	1/16/2013	97016	\$12.75
118	1/14/2013	1/16/2013	97016	\$12.75
118	1/14/2013	1/16/2013	64450	\$211.50
118	1/14/2013	1/16/2013	76942	\$151.18
118	1/16/2013	1/18/2013	76942	\$151.18
118	1/16/2013	1/18/2013	64450	\$211.50
118	1/16/2013	1/18/2013	97016	\$12.75
118	1/18/2013	1/22/2013	97016	\$12.75
118	1/18/2013	1/22/2013	64450	\$211.50
118	1/18/2013	1/22/2013	76942	\$151.18
118	1/21/2013	1/24/2013	97016	\$12.75
118	2/1/2013	2/6/2013	97016	\$12.75
118	2/1/2013	2/6/2013	76942	\$151.18
118	2/1/2013	2/6/2013	64450	\$211.50
118	2/8/2013	2/12/2013	76942	\$151.18
118	2/8/2013	2/12/2013	64450	\$211.50
118	2/8/2013	2/12/2013	97016	\$12.75
118	2/11/2013	2/13/2013	97016	\$12.75
118	2/11/2013	2/13/2013	64450	\$0.00
118	2/11/2013	2/13/2013	76942	\$151.18
118	2/15/2013	2/18/2013	76942	\$151.18
118	2/15/2013	2/18/2013	64450	\$0.00
118	2/15/2013	2/18/2013	97016	\$12.75
118	9/11/2013	9/20/2013	76942	\$148.16
118	9/11/2013	9/20/2013	64450	\$207.27
118	9/18/2013	9/20/2013	76942	\$148.16

MEDICARE BENEFICIARY	ON OR ABOUT DATE OF CLAIMED SERVICE	ON OR ABOUT DATE OF CLAIM	CPT	AMOUNT PAID
118	9/18/2013	9/20/2013	64450	\$207.27

100	9/18/2012	10/2/2012	95904	\$83.34
100	9/24/2012	10/2/2012	97016	\$11.98
100	9/26/2012	10/2/2012	97016	\$11.98
100	9/28/2012	10/2/2012	97016	\$11.98
100	10/1/2012	10/4/2012	97016	\$11.98
100	10/5/2012	10/9/2012	97016	\$11.98
100	10/10/2012	10/12/2012	97016	\$11.98
100	10/12/2012	10/16/2012	97016	\$11.98
100	10/15/2012	10/17/2012	97016	\$11.98
100	10/19/2012	10/23/2012	76942	\$149.78
100	10/19/2012	10/23/2012	64450	\$158.65
100	10/19/2012	10/23/2012	97016	\$11.98
100	10/22/2012	10/24/2012	97016	\$11.98
100	10/22/2012	10/24/2012	76942	\$149.78
100	10/22/2012	10/24/2012	64450	\$158.65
100	10/24/2012	10/26/2012	76942	\$149.78
100	10/24/2012	10/26/2012	64450	\$158.65
100	10/24/2012	10/26/2012	97016	\$11.98
100	10/26/2012	10/30/2012	97016	\$11.98
100	10/26/2012	10/30/2012	64450	\$158.65
100	10/26/2012	10/30/2012	76942	\$149.78
100	10/29/2012	10/31/2012	76942	\$149.78
100	10/29/2012	10/31/2012	64450	\$158.65
100	10/29/2012	10/31/2012	97016	\$11.98
100	10/31/2012	11/2/2012	97016	\$11.98
100	10/31/2012	11/2/2012	64450	\$158.65
100	10/31/2012	11/2/2012	76942	\$149.78
100	11/5/2012	11/8/2012	76942	\$149.78
100	11/5/2012	11/8/2012	64450	\$158.65
100	11/5/2012	11/8/2012	97016	\$11.98
100	11/9/2012	11/13/2012	97016	\$11.98
100	11/9/2012	11/13/2012	64450	\$158.65
100	11/9/2012	11/13/2012	76942	\$149.78
100	11/12/2012	11/15/2012	76942	\$149.78
100	11/12/2012	11/15/2012	64450	\$158.65
100	11/12/2012	11/15/2012	97016	\$11.98
100	11/16/2012	11/20/2012	97016	\$11.98
100	11/16/2012	11/20/2012	64450	\$158.65
100	11/16/2012	11/20/2012	76942	\$149.78
100	11/19/2012	11/21/2012	76942	\$149.78
100	11/19/2012	11/21/2012	64450	\$158.65
100	11/19/2012	11/21/2012	97016	\$11.98
100	11/26/2012	11/28/2012	97016	\$11.98
100	11/26/2012	11/28/2012	64450	\$158.65

MEDICARE BENEFICIARY	ON OR ABOUT DATE OF CLAIMED SERVICE	ON OR ABOUT DATE OF CLAIM	CPT	AMOUNT PAID
100	11/26/2012	11/28/2012	76942	\$149.78
100	11/30/2012	12/4/2012	76942	\$149.78
100	11/30/2012	12/4/2012	64450	\$158.65
100	11/30/2012	12/4/2012	97016	\$11.98
100	12/3/2012	12/6/2012	97016	\$11.98
100	12/3/2012	12/6/2012	64450	\$277.64
100	12/3/2012	12/6/2012	76942	\$149.78
100	12/7/2012	12/11/2012	76942	\$149.78
100	12/7/2012	12/11/2012	64450	\$158.65
100	12/7/2012	12/11/2012	97016	\$11.98
100	12/10/2012	12/12/2012	97016	\$11.98
100	12/10/2012	12/12/2012	64450	\$158.65
100	12/10/2012	12/12/2012	76942	\$149.78
100	12/14/2012	12/18/2012	76942	\$149.78
100	12/14/2012	12/18/2012	64450	\$158.65
100	12/14/2012	12/18/2012	97016	\$11.98
100	12/17/2012	12/19/2012	97016	\$11.98
100	12/17/2012	12/19/2012	64450	\$158.65
100	12/17/2012	12/19/2012	76942	\$149.78
100	1/11/2013	1/16/2013	76942	\$151.18
100	1/11/2013	1/16/2013	64450	\$93.90
100	1/11/2013	1/16/2013	97016	\$12.75
100	1/25/2013	1/29/2013	97016	\$12.75
100	1/25/2013	1/29/2013	76942	\$151.18
100	1/25/2013	1/29/2013	64450	\$211.50
100	8/5/2013	8/7/2013	76942	\$148.16
100	8/5/2013	8/14/2013	97016	\$9.70
100	8/5/2013	8/7/2013	64450	\$207.27
100	8/7/2013	8/14/2013	97016	\$9.70
100	8/9/2013	8/14/2013	97016	\$9.70
100	8/12/2013	8/14/2013	64450	\$207.27
100	8/12/2013	8/14/2013	76942	\$148.16
100	8/16/2013	8/21/2013	97016	\$9.70
100	8/19/2013	8/21/2013	64450	\$207.27
100	8/19/2013	8/21/2013	76942	\$148.16
100	8/23/2013	8/29/2013	76942	\$148.16
100	8/30/2013	9/4/2013	76942	\$148.16
100	9/6/2013	9/11/2013	76942	\$148.16

472	11/19/2012	11/21/2012	97016	\$11.98
472	11/21/2012	11/26/2012	97016	\$11.98
472	11/28/2012	11/30/2012	97016	\$11.98
472	11/28/2012	11/30/2012	64450	\$158.65
472	11/28/2012	11/30/2012	76942	\$149.78
472	11/30/2012	12/4/2012	76942	\$149.78
472	11/30/2012	12/4/2012	97016	\$11.98

MEDICARE BENEFICIARY	ON OR ABOUT DATE OF CLAIMED SERVICE	ON OR ABOUT DATE OF CLAIM	CPT	AMOUNT PAID
472	11/30/2012	12/4/2012	64450	\$277.64
472	12/3/2012	12/6/2012	97016	\$11.98
472	12/3/2012	12/6/2012	76942	\$149.78
472	12/3/2012	12/6/2012	64450	\$277.64
472	12/10/2012	12/12/2012	76942	\$149.78
472	12/10/2012	12/12/2012	64450	\$277.64
472	12/10/2012	12/12/2012	97016	\$11.98
472	12/12/2012	12/14/2012	97016	\$11.98
472	12/12/2012	12/14/2012	76942	\$149.78
472	12/12/2012	12/14/2012	64450	\$277.64
472	12/14/2012	12/18/2012	76942	\$149.78
472	12/14/2012	12/18/2012	64450	\$277.64
472	12/14/2012	12/18/2012	97016	\$11.98
472	12/19/2012	12/21/2012	97016	\$11.98
472	12/21/2012	12/27/2012	76942	\$149.78
472	12/21/2012	12/27/2012	97016	\$11.98
472	12/21/2012	12/27/2012	64450	\$277.64
472	1/11/2013	1/16/2013	97016	\$12.75
472	1/11/2013	1/16/2013	64450	\$211.50
472	1/11/2013	1/16/2013	76942	\$151.18
472	1/14/2013	1/16/2013	76942	\$151.18
472	1/14/2013	1/16/2013	64450	\$93.90
472	1/14/2013	1/16/2013	97016	\$12.75
472	1/16/2013	1/18/2013	97016	\$12.75
472	1/18/2013	1/22/2013	97016	\$12.75
472	1/18/2013	1/22/2013	64450	\$211.50
472	1/18/2013	1/22/2013	76942	\$151.18
472	1/21/2013	1/24/2013	97016	\$12.75
472	1/25/2013	1/29/2013	97016	\$12.75
472	1/28/2013	1/30/2013	97016	\$12.75
472	1/28/2013	1/30/2013	76942	\$151.18
472	1/28/2013	1/30/2013	64450	\$211.50
472	2/8/2013	2/12/2013	64450	\$211.50
472	2/8/2013	2/12/2013	76942	\$151.18
472	2/8/2013	2/12/2013	97016	\$12.75
472	2/13/2013	2/15/2013	97016	\$12.75
472	2/13/2013	2/15/2013	76942	\$151.18

129	1/16/2012	1/23/2012	95904	\$83.34
129	1/16/2012	1/23/2012	95903	\$189.96
129	1/23/2012	1/30/2012	97016	\$11.98
129	1/25/2012	1/30/2012	97016	\$11.98
129	1/30/2012	2/7/2012	97016	\$11.98
129	2/8/2012	2/14/2012	97016	\$11.98
129	2/17/2012	2/23/2012	97016	\$11.98
129	2/20/2012	2/23/2012	97016	\$11.98

MEDICARE BENEFICIARY	ON OR ABOUT DATE OF CLAIMED SERVICE	ON OR ABOUT DATE OF CLAIM	CPT	AMOUNT PAID
129	2/22/2012	2/27/2012	97016	\$11.98
129	2/24/2012	3/2/2012	97016	\$11.98
129	3/2/2012	3/8/2012	97016	\$11.98
129	3/5/2012	3/8/2012	97016	\$11.98
129	3/26/2012	3/30/2012	97016	\$11.98
129	3/30/2012	4/2/2012	97016	\$11.98
129	9/26/2013	11/27/2013	64450	\$207.27
129	9/26/2013	11/27/2013	76942	\$148.16

380	3/5/2012	3/8/2012	97016	\$13.68
380	3/12/2012	3/15/2012	97016	\$13.68
380	3/19/2012	3/26/2012	97016	\$13.68
380	3/26/2012	3/30/2012	97016	\$13.68
380	4/2/2012	4/9/2012	97016	\$13.68
380	4/9/2012	4/13/2012	97016	\$13.68
380	4/16/2012	5/25/2012	97016	\$12.70
380	4/23/2012	7/6/2012	97016	\$12.70
380	4/30/2012	5/3/2012	97016	\$11.98
380	5/7/2012	5/22/2012	97016	\$11.98
380	5/21/2012	5/25/2012	97016	\$11.98
380	6/25/2012	7/20/2012	97016	\$11.98
380	7/9/2012	7/20/2012	97016	\$11.98
380	7/16/2012	7/20/2012	97016	\$11.98
380	7/23/2012	7/24/2012	97016	\$11.98
380	7/30/2012	8/1/2012	97016	\$11.98
380	8/6/2012	8/7/2012	97016	\$11.98
380	8/20/2012	8/28/2012	97016	\$11.98
380	9/5/2012	9/7/2012	97016	\$11.98
380	9/17/2012	9/19/2012	97016	\$11.98
380	10/1/2012	10/4/2012	97016	\$11.98
380	10/15/2012	10/17/2012	97016	\$11.98
380	10/29/2012	10/31/2012	97016	\$11.98
380	11/19/2012	11/21/2012	97016	\$11.98
380	12/17/2012	12/19/2012	97016	\$11.98
380	1/14/2013	1/16/2013	97016	\$5.14
380	2/11/2013	2/13/2013	97016	\$12.75
380	2/25/2013	2/27/2013	97016	\$12.75
380	4/1/2013	4/5/2013	97016	\$9.70
380	4/15/2013	4/17/2013	97016	\$9.70
380	4/29/2013	5/2/2013	97016	\$9.70
380	5/13/2013	5/15/2013	97016	\$9.70
380	5/24/2013	5/29/2013	97016	\$9.70

087	8/24/2012	8/28/2012	95903	\$222.40
087	8/24/2012	8/28/2012	95904	\$83.34
087	9/7/2012	9/11/2012	97016	\$11.98

MEDICARE BENEFICIARY	ON OR ABOUT DATE OF CLAIMED SERVICE	ON OR ABOUT DATE OF CLAIM	CPT	AMOUNT PAID
087	9/14/2012	9/18/2012	97016	\$11.98
087	9/21/2012	9/25/2012	97016	\$11.98
087	9/28/2012	10/2/2012	97016	\$11.98
087	10/12/2012	10/16/2012	97016	\$11.98
087	10/19/2012	10/23/2012	76942	\$149.78
087	10/19/2012	10/23/2012	64450	\$158.65
087	10/19/2012	10/23/2012	97016	\$13.68
087	11/9/2012	11/13/2012	97016	\$11.98
087	11/9/2012	11/13/2012	64450	\$158.65
087	11/9/2012	11/13/2012	76942	\$149.78
087	11/16/2012	11/20/2012	76942	\$149.78
087	11/16/2012	11/20/2012	64450	\$158.65
087	11/16/2012	11/20/2012	97016	\$13.68
087	11/30/2012	12/4/2012	97016	\$13.68
087	11/30/2012	12/4/2012	64450	\$158.65
087	11/30/2012	12/4/2012	76942	\$149.78

434	11/20/2012	11/26/2012	95903	\$111.20
434	11/20/2012	11/26/2012	95904	\$83.34
434	11/26/2012	11/28/2012	76942	\$149.78
434	11/26/2012	11/28/2012	64450	\$277.64
434	11/26/2012	11/28/2012	97016	\$11.98
434	11/30/2012	12/4/2012	97016	\$11.98
434	11/30/2012	12/4/2012	64450	\$277.64
434	11/30/2012	12/4/2012	76942	\$149.78
434	12/3/2012	12/6/2012	76942	\$149.78
434	12/3/2012	12/6/2012	64450	\$277.64
434	12/3/2012	12/6/2012	97016	\$11.98
434	12/7/2012	12/11/2012	97016	\$11.98
434	12/7/2012	12/11/2012	64450	\$277.64
434	12/7/2012	12/11/2012	76942	\$149.78
434	12/10/2012	12/12/2012	76942	\$149.78
434	12/10/2012	12/12/2012	64450	\$277.64
434	12/10/2012	12/12/2012	97016	\$11.98
434	12/14/2012	12/18/2012	97016	\$11.98
434	12/14/2012	12/18/2012	64450	\$277.64
434	12/14/2012	12/18/2012	76942	\$149.78
434	12/17/2012	12/19/2012	76942	\$149.78
434	12/17/2012	12/19/2012	64450	\$277.64
434	12/17/2012	12/19/2012	97016	\$11.98
434	1/4/2013	2/8/2013	76942	\$151.18
434	1/4/2013	2/8/2013	64450	\$93.90
434	1/4/2013	2/8/2013	97016	\$12.75

349	12/18/2012	2/8/2013	95904	\$83.34
349	12/31/2012	2/8/2013	76942	\$149.78

MEDICARE BENEFICIARY	ON OR ABOUT DATE OF CLAIMED SERVICE	ON OR ABOUT DATE OF CLAIM	CPT	AMOUNT PAID
349	12/31/2012	2/8/2013	64450	\$277.64
349	12/31/2012	2/8/2013	97016	\$11.98
349	1/2/2013	2/8/2013	64450	\$142.60
349	1/2/2013	2/8/2013	76942	\$151.18
349	1/2/2013	2/8/2013	97016	\$12.75
349	1/4/2013	2/8/2013	97016	\$12.75
349	1/4/2013	2/8/2013	76942	\$151.18
349	1/4/2013	2/8/2013	64450	\$211.50
349	1/7/2013	2/8/2013	64450	\$211.50
349	1/7/2013	2/8/2013	76942	\$151.18
349	1/7/2013	2/8/2013	97016	\$12.75
349	1/9/2013	2/8/2013	97016	\$12.75
349	1/9/2013	2/8/2013	76942	\$151.18
349	1/9/2013	2/8/2013	64450	\$211.50
349	1/14/2013	2/8/2013	64450	\$211.50
349	1/14/2013	2/8/2013	76942	\$151.18
349	1/14/2013	2/8/2013	97016	\$12.75
349	1/16/2013	2/8/2013	97016	\$12.75
349	1/16/2013	2/8/2013	76942	\$151.18
349	1/16/2013	2/8/2013	64450	\$211.50
349	1/21/2013	2/8/2013	64450	\$211.50
349	1/21/2013	2/8/2013	76942	\$151.18
349	1/21/2013	2/8/2013	97016	\$12.75
349	1/23/2013	2/8/2013	97016	\$12.75
349	1/23/2013	2/8/2013	76942	\$151.18
349	1/23/2013	2/8/2013	64450	\$211.50
349	1/28/2013	2/8/2013	64450	\$211.50
349	1/28/2013	2/8/2013	76942	\$151.18
349	1/28/2013	2/8/2013	97016	\$12.75
349	2/13/2013	2/15/2013	97016	\$12.75
349	2/13/2013	2/15/2013	76942	\$151.18
349	2/13/2013	2/15/2013	64450	\$0.00
349	2/25/2013	2/27/2013	64450	\$0.00
349	2/25/2013	2/27/2013	76942	\$151.18
349	2/25/2013	2/27/2013	97016	\$12.75

COUNT 1**FALSE CLAIMS ACT 31 U.S.C. § 3729(a)(1)(A)**

63. Paragraphs 1 through 62 are realleged as though fully set forth herein.

64. Through the acts described above, Ryan Schell and Tyler Schell knowingly presented, or caused to be presented false or fraudulent claims for payment or approval by the United States in violation of the False Claims Act, 31 U.S.C. §§ 3729(a)(1)(A).

65. Because of the defendant's false or fraudulent claims, the United States has suffered damages.

COUNT 2

FALSE CLAIMS ACT 31 U.S.C. § 3729(a)(1)(B)

66. Paragraphs 1 through 62 are realleged and incorporated by reference as though fully set forth herein.

67. Through the acts described above, Ryan Schell and Tyler Schell knowingly made, used, or caused to be made or used, false records or statements material to false or fraudulent claims in violation of the False Claims Act, 31 U.S.C. §§ 3729(a)(1)(B).

68. Because of the defendant's false records or false statements, the United States has suffered damages.

COUNT 3

UNJUST ENRICHMENT

69. Paragraphs 1 through 62 are realleged as though fully set forth herein.

70. Defendants knowingly obtained payments from the United States under the Medicare program.

71. It is inequitable for Defendants to retain the funds under the circumstances.

PRAYER FOR RELIEF

WHEREFORE, plaintiff United States demands and prays that judgment be entered in its favor and against Defendant as follows:

1. As to Count 1, judgment against Defendants for:

- a. treble the government's damages;
 - b. the maximum civil penalties as provided by law for each false claim or false statement;
 - c. any other further relief that may be just and proper.
2. As to Count 2, judgment against Defendants for:
- a. treble the government's damages;
 - b. the maximum civil penalties as provided by law for each false claim or false statement;
 - c. any other further relief that may be just and proper.
3. As to Count 3, judgment against the Defendants for the amount of the benefit by which the Defendants were unjustly enriched, plus costs, interest, and such other and further relief as may be just and proper.
4. Any other further relief that this Court deems appropriate.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the United States demands a jury trial in this case.

Respectfully submitted,

STEPHEN R. McALLISTER
United States Attorney
District of Kansas

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Attorneys for the Plaintiff

REQUEST FOR PLACE OF TRIAL

The United States of America hereby requests that trial of the above-entitled matter be held in the City of Kansas City, Kansas.

s/ Jon P. Fleenor
JON P. FLEENOR
Assistant United States Attorney